

CERTIFICATE OF MAILING

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3727

I hereby certify that this correspondence with attachments are being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

on February 27, 2004
 Date of Mailing
Matthew E. Leno
 Applicant, Assignee or Registered Representative
[Signature]
 Signature
February 27, 2004
 Date of Signature



RESPONSE TO OFFICE ACTION TRANSMITTAL LETTER			ATTORNEY'S DOCKET NO. 24180-124005
APPLN. NO. 10/046,500	FILING DATE October 24, 2001	EXAMINER Sandra M. Nolan	GROUP ART UNIT 3727
INVENTOR(S) Richards, et al.			
TITLE OF INVENTION Polypropylene Container and Process for Making the Same			

TO THE COMMISSIONER FOR PATENTS

Transmitted herewith is the Response to Office Action dated February 9, 2004.

- ☐ Small entity status of this application under 37 CFR 1.27 has been established by a verified statement previously submitted.
- ☐ A verified statement to establish a small entry status under 37 CFR 1.9 and 1.27 is enclosed.
- ☐ A request for a ____-month extension of time is enclosed.
- ☒ No additional claim fee is required.
- ☐ The fee has been calculated as shown below:

	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA
TOTAL		MINUS	20	
INDEP.		MINUS	3	
FIRST PRESENTATION OF MULTIPLE DEP. CLAIM				

SMALL ENTITY			OTHER THAN A SMALL ENTITY	
RATE	ADD'L FEE	OR	RATE	ADD'L FEE
x \$9 =	\$0		x \$18 =	\$
x \$43 =	\$0		x \$86 =	\$
x \$145 =	\$		x \$290 =	\$
TOTAL ADD'L FEE	\$	OR	TOTAL ADD'L FEE	\$

- ☒ Please charge Deposit Account No. 13-0206 in the amount of \$00.00 for the Response to Office Action. A duplicate copy of this sheet is enclosed.
- ☐ A check in the amount of \$_____ to cover filing fee is enclosed.
- ☒ The Commissioner is hereby authorized to charge payment of any additional filing fees required under 37 CFR 1.16 and any patent application processing fees under 37 CFR 1.17 associated with this communication or credit any overpayment to Deposit Account No. 13-0206. A duplicate copy of this sheet is enclosed.
- ☐ I hereby petition under 37 CFR 1.136(a) for any extension of time required to ensure that this paper is timely filed. Please charge any associated fees which have not otherwise been paid to Deposit Account No. 13-0206. A duplicate copy of this sheet is enclosed.

February 27, 2004
 (Date)

SIGNATURE: [Signature]
 ATTORNEY NAME: Matthew E. Leno
 REGISTRATION NO: 41,149

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Docket No. 24180-124005

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of Richards, et al.

Appln. No. ¹⁰/046,500

Filed: October 24, 2001

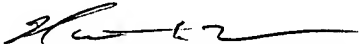
For: POLYPROPYLENE CONTAINER AND
PROCESS FOR MAKING THE SAME

)
) Examiner: Sandra M. Nolan

)
) Group Art Unit: 3727

)
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) I, hereby certify that this correspondence (along with any
) documents referred to as attached or enclosed) is being deposited
) with the US Postal Service as first class mail in an envelope
) addressed to: Commissioner for Patents, P.O. Box 1450,
) Alexandria, VA 22313-1450, on February 27, 2004.

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) _____
) Matthew E. Leno, Reg. No. 41,149

RESPONSE

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

This paper is submitted in response to the Office Action mailed February 9, 2004, and the February 19, 2004 teleconference between Examiner Nolan and the below-signed counsel for Applicants. Reconsideration of the above-identified application in light of this paper is respectfully requested.

Numbered paragraph 1 of the February 9, 2004 Office Action states that Applicants' November 13, 2003, AMENDMENT UNDER 37 C.F.R. §1.111 (the "Amendment") is not fully responsive to the Office Action of August 13, 2003, because it contains no discussion of U.S. Patent No. 5,303,834 to Krishnakumar et al. ("Krishnakumar"). For the reasons below, Applicants respectfully state that the Amendment was fully responsive to the August 13, 2003, Office Action.

The August 13, 2003, Office Action rejected claims 25-28 and 30-41 under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 5,804,016 to Schmidt et al. (Schmidt) and claim 29 under 35 U.S.C. §103(a) as unpatentable over Schmidt in view of Krishnakumar. The Amendment clearly demonstrated that Schmidt's disclosure of a perform configuration for a preform constructed of

PET, was not combinable with Schmidt's vague disclosure of using polypropylene to construct a perform without reference to its geometric construction. The rejection of claim 29 in the August 13, 2003, Office Action was based, in part, on this improper combination of these disclosures by Schmidt. By disproving the teachings of the primary reference relied upon in the rejection of claim 29, the Amendment disproved the entire obviousness rejection of claim 29. Each and every element of claim 29 must be taught, or rendered obvious, by the combination of Schmidt and Krishnakumar. Disproving even one of the asserted teachings of Schmidt is sufficient to rebut, and is thus responsive to, the rejection of claim 29. No discussion of Krishnakumar was necessary.

Additionally, claim 29 depends from independent claim 25. The Amendment rebutted the rejection of claim 25 by controverting the combinability of Schmidt's teachings, as discussed above. By showing that independent claim 25 was patentable, the Amendment also provided a showing that dependant claim 29 was patentable. No discussion of Krishnakumar was necessary.

In the February 19, 2004, teleconference with Examiner Nolan, the Examiner stated that an indication by Applicants that they believed no discussion of Krishnakumar was necessary to respond to the August 13, 2003, Office Action would be sufficient to overcome the objection to the Amendment set forth in the February 9, 2004, Office Action. This paper is intended to make such an indication. This paper is intended to address only the objections to the Amendment set forth in the February 9, 2004, Office Action. Applicants continue to rely on the arguments and claim amendments set forth in the Amendment as a complete response to the August 13, 2003, Office Action.

The above discussion of the February 19, 2004, teleconference between the below-signed counsel and Examiner Nolan represents a complete description of the substance of that teleconference.

In re Appln. of Richards, et al.
Appln. No. ¹⁰/046,500

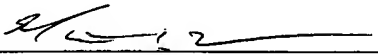
Applicants assert that this application is in condition for allowance. Early action to that end is requested.

Respectfully submitted,

McDERMOTT, WILL & EMERY

Date: February 27, 2004

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